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UNITED STATES DISTRICT COURT

for the

Eastern District of Michigan

United States of America

v.

NICOLAS DUBIN

Case: 2:10-mj-30416
Judge: Unassigned,
Filed: 10-06-2010 At 04:52 PM
CMP: Sealed Matter (jj)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of August 26, 2010, through October 6, 2010 in the county of Oakland in the
Eastern District of Michigan, the defendant(s) violated:*Code Section*


(1) 18 U.S.C. sec. 2252A(a)(2)

(2) 18 U.S.C. sec. 2252A(a)(5)(B)

Offense Description(1) Knowingly received and distributed child pornography,
as defined in 18 U.S.C. sec. 2256(8); and(2) Knowingly possessed child pornography,
as defined in 18 U.S.C. sec. 2256(8)

This criminal complaint is based on these facts:


On or about August 26, 2010, through a facility of interstate commerce, to wit: the Internet and Limewire peer-to-peer software, the defendant did receive and distribute images of child pornography, to wit: still images and videos of real minors engaged in sexually explicit conduct and the lascivious exhibition of the genitals, such images having previously traveled in interstate or foreign commerce. Moreover, on October 6, 2010, defendant knowingly possessed images of child pornography, to wit: still images and videos of real minors engaged in sexually explicit conduct and the lascivious exhibition of the genitals, such images having previously traveled in interstate or foreign commerce.

☒ Continued on the attached sheet.
Complainant's signature

FBI Special Agent Brett Leatherman

Printed name and title

Sworn to before me and signed in my presence.

Date: October 6, 2010City and state: Detroit, Michigan
Judge's signature

Virginia M. Morgan, United States Magistrate Judge

Printed name and title

AFFIDAVIT

I, Brett E. Leatherman, a Special Agent (SA) with the Federal Bureau of Investigation (FBI),

Detroit Division, Michigan, being duly sworn, depose and state as follows:

INTRODUCTION

1. I am a Special Agent of the Federal Bureau of Investigation (FBI) and have been employed as such since May of 2003. I am currently assigned to the Detroit Division of the FBI, Oakland County Resident Agency, located in Troy, Michigan. My duties include the investigation of various violations of federal criminal law, including matters involving the online exploitation of children, particularly in violation of Title 18, United States Code (U.S.C.) Sections 2252 and 2252A, which criminalize the possession, receipt, and transportation of child pornography.
2. I am a "federal law enforcement officer" within the meaning of Rule 41(a) of the Federal Rules of Criminal Procedure.
3. I make this affidavit in support of a criminal complaint alleging that Nicolas Dubin knowingly received, distributed, and possessed child pornography.
4. The statements in this Affidavit are based in part on information provided by other FBI Special Agents, my investigation of this matter, and my experience and training as a Special Agent of the FBI. Since this affidavit is being submitted for the limited purpose of filing a criminal complaint, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause to believe that Nicolas Dubin violated 18 U.S.C. § 2252 and § 2252A.

LIMEWIRE

5. LimeWire is peer to peer software which allows computer users to share files, such as pictures or videos, over the internet through their shared folder. A user can connect with remote computers over the internet enabling them to use search terms to query the network. The user can then view the file names returned and actively download them if they choose. Furthermore, LimeWire is configured for users to download files from other computers but users are not able to upload files to a remote computer.

DETAILS OF THE INVESTIGATION

6. On August 26, 2010, an undercover FBI Special Agent (UCE), located in Detroit, Michigan, acting in an online undercover capacity, using an Internet connected computer, logged onto the Peer to Peer (P2P) file sharing network using the software EP2P. EP2P is an enhanced version of LimeWire which limits downloads to a single source, has integrated software which captures packet traffic, provides the ability to geographically target potential subjects, and is used to monitor the trafficking of child pornography which occurs over P2P networks.
7. The UCE conducted a key word search using the term, "9yo", which is known to be associated with images of child pornography. The UCE connected to a computer utilizing the IP address 71.238.138.46, which had twenty two (22) filenames consistent with that of child pornography.
8. The UCE downloaded twelve (12) image files and, upon review, determined that seven (7) of the downloaded files depicted child pornography.
9. The UCE used an Internet tool and determined that Internet service provider (ISP)

Comcast Cable Services (hereinafter Comcast) holds the registration on the IP address 71.238.138.46. Subsequently, on September 3, 2010, the UCE served an FBI administrative subpoena on Comcast.

10. On September 10, 2010, Comcast provided subscriber information for the user of IP 71.238.138.46 for the time frame the files were downloaded by the UCE. Subpoena results identified the service and billing address as 3815 Lone Pine Road, Apartment 100, West Bloomfield, Michigan 48323, which had an active residential high speed Internet account. Comcast provided the name of the subscriber of the high speed Internet service, who hereinafter will be referred to as "Subscriber 1."
11. On September 23, 2010, FBI Special Agent Brian Cooney conducted a public records search for Subscriber 1, which listed two addresses for Subscriber 1, one of which was 3815 Lone Pine Road, Apartment 100, West Bloomfield, Michigan 48323. Further public records searches revealed that a male relative of Subscriber 1, Nicolas Dubin, is also listed as an owner of 3815 Lone Pine Road, Apartment 100, West Bloomfield, Michigan 48323.
12. On September 24, 2010, SA Cooney reviewed a sample of the images downloaded by the UCE, some of which are described in the table below:

File Name (in part)	Description
aaaa boylove gay pedo preteen boy sex child porn...	A still image depicting an adult male penis and a prepubescent penis held side by side. The bottom left corner had the text "All-male child porn Kidsex rocks!"
SHX PRETEEN BOYS Zadoom C Pedo Rizmastar Kdv Rbv 6Yo 7Yo 8Yo 9Yo 10Yo Boy Sex Gay...	A still image depicting a prepubescent boy lying down with his legs spread exposing his penis.
1 Matthew Cute Little 8yo Preteen boy Shoing Pulling Underwear Down On Bed Legs Open Pedo Young Child Sex...	A still image depicting a prepubescent boy lying down with his legs spread pulling his underwear down exposing his penis.
My Mates 9 year old brother naked on bed after bath, taken on my cell phone...	A still image depicting a prepubescent boy sitting on a bed without pants on exposing his penis.

13. As a result of my training and experience, I am familiar with numerous acronyms, abbreviations and naming conventions frequently associated with child pornographic images. These include a number followed by the letters "yo" or "yr" to indicate the age of a child, e.g. 8yo or 8yr to indicate a 8 year old child; "preteen" to indicate a child who has not yet reached his/her teenage years. Many of the images downloaded and available from IP address 71.238.138.46 contained the above terminology in the titles, as well as slang and other terms for genitalia and sexual acts.

14. On October 6, 2010, Agents of the Federal Bureau of Investigation executed a Federal Search Warrant at 3815 Lone Pine Road, Apartment 100, West Bloomfield, Michigan. During the search, Nicolas Dubin was interviewed. During the interview, Nicolas Dubin admitted to possessing many images and video files containing child pornography on his computer and on at least one external thumb drive. Nicolas Dubin advised that he downloaded the child pornography images and video files from internet web sites and LimeWire. The images and video files were of boys between the ages of ten (10) and fourteen (14) years of age exposing their genitals and engaged in sexual acts with each other and with adult males. Nicolas Dubin has been downloading and viewing images of child pornography for "several years." Nicolas Dubin stated that he knew possessing images of child pornography was illegal and made the choice to download them.
15. On October 6, 2010, SA Cooney reviewed images and video files contained on Nicolas Dubin's computer and four (4) external thumb drives utilizing Image Scan 3.02A. The review revealed over one hundred (100) image files and over ten (10) video files containing images consistent with child pornography. One image that SA Cooney reviewed appeared to be one of the images that the UCE downloaded on August 26, 2010. One of the videos was of a naked prepubescent boy sitting on a bed performing oral sex on an adult male penis while a second prepubescent boy fondles the first boy's penis.

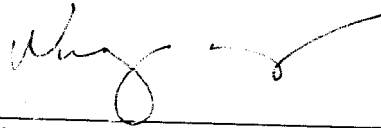
CONCLUSION

16. Based on the above information, I believe that Nicolas Dubin, located at 3815 Lone Pine Road, Apartment 100, West Bloomfield, Michigan 48323, knowingly possessed, distributed, and received images and video files containing child pornography, in violation of Title 18, United States Code, Sections 2252 and 2252A.



Brett E. Leatherman
Special Agent Federal Bureau of Investigation
Federal Bureau of Investigation

Subscribed and sworn to before me this 6th day of October, 2010.



Virginia Morgan
United States Magistrate Judge